

SEP 21 2016

LODGED ☒ REC'D  
PAID ☒ DOCKETED  
\$350.00

PETER SZANTO 503-610-0865  
P.O. Box 4614  
Portland OR 97208

**United States Bankruptcy Court**  
**in and for the District of OREGON**

1001 SW 5<sup>th</sup> Av., Portland OR 97204

In Re Peter Szanto, Debtor

**Core Case # 16 -bk-33185 pcm11**

=====

**ADVERSARIAL #**

Peter Szanto, Plaintiff

vs.

Evye Szanto, Victor Szanto,  
Nicole Szanto, Kimberly Szanto,  
Mariette Szanto,  
Anthony Szanto, John Barlow,  
Austin Bell,  
Barbara Szanto Alexander,  
Defendants

- 1) Adversarial Proceeding to  
Recover Estate Assets
- 2) Complaint for Damages
- 3) Federal Proceeding to  
Reassign Tax Indebtedness

Adversarial Proceeding / Complaint – pg. 1

ORIGINAL

1. Comes now debtor Peter Szanto who pleads as follows.
2. This is an action under the Bankruptcy laws to recover money and property belonging to the debtor Peter Szanto's Bankruptcy estate.
3. This is an action to recover money and property which the defendants acquired, in concert or acting individually, through theft -- and subsequent improper use -- of plaintiff's identity and personal / private identifying information.
4. This is an action which asks this Court to reassign tax liability -- which was generated through improper use of plaintiff's identity.
5. This is also an action to recover money and property absconded though fraud committed by the defendants against the plaintiff.
6. This is also action based upon the conspiracy of the defendants working in concert with one another to commit the improper acts as described herein.

### **JURISDICTION**

7. Jurisdiction herein is based on complete diversity of plaintiff with all of the defendants.
8. Jurisdiction is based on Bankruptcy court jurisdiction to recover estate assets.
9. Jurisdiction is also based on exclusive Federal jurisdiction over internal revenue matters.

## FACTS

10. Beginning in 2005, defendants Evye Szanto, Victor Szanto, Nicole Szanto, Kimberly Szanto, Mariette Szanto, Anthony Szanto, and Barbara Szanto Alexander, began a campaign to rob, loot and abscond with various Szanto Family trust assets (henceforth ASSETS).
11. Defendants' primary goal was to make ASSETS, in which plaintiff was entitled to share, their own. And to bar and defeat all of plaintiff's rights to any ASSETS.
12. One strategy employed by Evye Szanto, Victor Szanto, Nicole Szanto, Kimberly Szanto, Mariette Szanto, Anthony Szanto, and Barbara Szanto Alexander was the improper and impermissible use of plaintiff's identity and identifying information.
13. Plaintiff's identity and identifying information being readily available from various Szanto family trust papers and records. *to which SS had on to flow access.*
14. Only in December 2014, did plaintiff become aware that security of his identity and personal, private identifying information had been compromised.
15. The information regarding said stolen identity came *via* a demand from the Internal Revenue Service (henceforth IRS) [EXHIBIT A] for additional taxes based on cancellation of debt income.
16. Plaintiff's investigation, research and analysis – along with information obtained from the IRS and the Department of Justice

demonstrated use of plaintiff's name and identity by the defendants to obtain credit and open bank accounts in plaintiff's name, but without plaintiff's knowledge or permission.

17. Thereafter, said accounts went unpaid, *even though Δ's had borrowed thereon.*

18. The lending institutions thereafter applied for tax credit for cancelled debt and the cancelled debt became imputed taxable income to plaintiff.

19. It is upon these facts that plaintiff contends the following causes of action.

#### **First Cause of Action: Identity Theft**

20. Plaintiff seeks recompense for theft and use of his identity and personal identifying information by the defendants.

21. Said improper use of plaintiff's identity by defendants caused plaintiff to incur tax liability, diminished credit worthiness and other negative financial results.

22. Plaintiff asks for restitution in the amount of \$250,000.

#### **Second Cause of Action: Breach of Fiduciary Duty**

23. Plaintiff contends that defendants, in their capacities as fiduciaries of various Szanto Family ASSETS had a fiduciary duty to <sup>keep</sup> ~~keep~~ and make safe and secure plaintiff's personal financial information.

1  
2 24. Plaintiff contends that defendants breached said duties of security  
3 by impermissible use of plaintiff's identity and personal identifying  
4 information.

5 25. Plaintiff seeks recompense for these breaches in an amount to be  
6 shown by proof.

7  
8 **Third Cause of Action: Fraud**

9  
10 26. Plaintiff contends that the defendants made false and fraudulent  
11 statements concerning material facts. Here, defendants made many  
12 statements regarding plaintiff's identity which they knew to be untrue  
13 (particularly that they had right to use plaintiff's identity).

14 27. Most significant of these being use of plaintiff's identity without  
15 permission.

16 28. Defendants knew at the time of making these false and fraudulent  
17 statements regarding plaintiff that they were actually making false  
18 representations regarding plaintiff's identity.

19 29. Defendants' intent, by the making of false statements was that their  
20 representations would induce another to act upon those  
21 representations.

22 30. Here, all of the banks which loaned and advanced monies to the  
23 defendants relied upon defendants' fraudulent statements  
24 regarding plaintiff's identity.

- 1
- 2 31. The reliance of various financial entities on defendant's actions
- 3 harmed plaintiff, because money loaned using plaintiff's name was
- 4 never repaid.
- 5 32. The consequence thereof being that money loaned in plaintiff's
- 6 name, but without plaintiff's permission was ascribed as a bad-
- 7 debt and misuse of credit against plaintiff.
- 8 33. Plaintiff seeks recompense for these actions in an amount to be
- 9 shown by proof,
- 10
- 11

12 **Fourth Cause of Action: Conspiracy**

13

- 14 34. In *Pitts v. King*, (1932) 141 Or 23, 28, 15 P.2nd 379, Oregon
- 15 adopted the following as a definition for a conspiracy in a civil
- 16 action:

17 "A conspiracy is a combination of two or more persons

18 by some concerted action to accomplish some criminal or

19 unlawful purpose or to accomplish some purpose not in

20 itself criminal by unlawful means."

21

- 22 35. Plaintiff alleges that all of the defendants, through their concerted
- 23 actions sought to accomplish the common unlawful purpose of use
- 24 of plaintiff's identity without plaintiff's permission.

1  
2 36. Plaintiff seeks restitution for that abuse of his identity in an amount  
3 to be shown by proof.  
4

5 **PRAYER**  
6

7 37. Plaintiff seeks an award of \$302,849 as recompense for the tax  
8 liability created by defendants.

9 38. Plaintiff seeks an additional award of \$200,000 as the amount he  
10 reasonably anticipates expending in the rehabilitation of his credit  
11 reputation and standing.

12 39. Plaintiff asks that this Court reassign Federal tax liability according  
13 to proof from plaintiff to the defendants.

14 40. Plaintiff asks such further relief as this Court may see just and  
15 proper.  
16

17 DATED 15 September 2016  Peter Szanto  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Department of the Treasury-Internal Revenue Service  
**Income Tax Examination Changes**  
(Unagreed and Excepted Agreed)

Name and Address of Taxpayer

PETER & SUSAN SZANTO  
11 SHORE PINE DR  
NEWPORT COAST CA 92657-1544

Taxpayer Identification Number

Return Form No.:

1040

Person with whom  
examination  
changes were  
discussed.

Name and Title:

**1. Adjustments to Income**

12/31/2010

Period End

Period End

a. Cancellation of Debt Income

292,868.00

b. Substituted Payments Income

1,093.00

c. Itemized Deductions

1,588.00

d. Exemptions

7,300.00

e.

f.

g.

h.

i.

j.

k.

l.

m.

n.

o.

p.

**EXHIBIT A****2. Total Adjustments**

302,849.00

**3. Taxable Income Per Return or as Previously Adjusted**

(17,111.00)

**4. Corrected Taxable Income**

285,738.00

Tax Method

SCHEDULE D

Filing Status

Joint

**5. Tax**

65,811.00

**6. Additional Taxes / Alternative Minimum**

5,905.00

**7. Corrected Tax Liability**

71,716.00

**8. Less**

a.

**Credits**

b.

c.

d.

**9. Balance (Line 7 less total of Lines 8a thru 8d)**

71,716.00

**10. Plus**

Other

Taxes

a.

b.

c.

d.

**11. Total Corrected Tax Liability (Line 9 plus Lines 10a thru 10d)**

71,716.00

**12. Total Tax Shown on Return or as Previously Adjusted**

0.00

**13. Adjustments to:** a. See Attached

(800.00)

b.

c.

**14. Deficiency-Increase in Tax or (Overassessment - Decrease in Tax)  
(Line 11 less Line 12 adjusted by Lines 13a through 13c)**

72,516.00

**15. Adjustments to Prepayment Credits-Increase (Decrease)****16. Balance Due or (Overpayment) - (Line 14 adjusted by Line 15)  
(Excluding interest and penalties)**

72,516.00



Department of the Treasury-Internal Revenue Service  
**Income Tax Examination Changes**  
(Unagreed and Excepted Agreed)Page 2 of 2Name of Taxpayer  
PETER & SUSAN SZANTOTaxpayer Identification Number  
~~XXXXXXXXXX~~Return Form No.:  
1040

17. Penalties/ Code Sections	Period End 12/31/2010	Period End	Period End
a. Delq-IRC 6651(a)(1)	17,502.76		
b. Accuracy-IRC 6662	14,503.20		
c.			
d.			
e.			
f.			
g.			
h.			
i.			
j.			
k.			
l.			
m.			
n.			
18. Total Penalties	32,005.96		
Underpayment attributable to negligence: (1981-1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.			
Underpayment attributable to fraud: (1981-1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.			
Underpayment attributable to Tax Motivated Transactions (TMT). Interest will accrue and be assessed at 120% of underpayment rate in accordance with IRC 6621(c).	0.00		
19. Summary of Taxes, Penalties and Interest:			
a. Balance due or (Overpayment) Taxes - (Line 16, Page 1)	72,516.00		
b. Penalties (Line 18) - computed to 12/09/2014	32,005.96		
c. Interest (IRC § 6601) - computed to 01/08/2015	12,229.61		
d. TMT Interest - computed to 01/08/2015 (on TMT underpayment)	0.00		
e. Amount due or refund - (sum of Lines a, b, c and d)	116,751.57		

## Other Information:

IRC 6404(g) does not apply.

**EXHIBIT A**

Examiner's Signature:

Name

John Reed

Employee ID:

0246270

Office:

Date:


12/09/2014

The Internal Revenue Service has agreements with state tax agencies under which information about federal tax, including increases or decreases, is exchanged with the states. If this change affects the amount of your state income tax, you should amend your state return by filing the necessary forms.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income you earned and do not pay the required tax. The IRS may order backup withholding (withholding of a percentage of your dividend and/or interest payments) if the tax remains unpaid after it has been assessed and four notices have been issued to you over a 120-day period.

<b>ADVERSARY PROCEEDING COVER SHEET</b> (Instructions on Reverse)		<b>ADVERSARY PROCEEDING NUMBER</b> (Court Use Only)		
<b>PLAINTIFFS</b>  Peter Szanto		<b>DEFENDANTS</b> Evye Szanto, Victor Szanto Nicole Szanto, Kimberley Szanto, Mariette Szanto, Anthony Szanto,		
<b>ATTORNEYS</b> (Firm Name, Address, and Telephone No.)		Austin Bell, John Barlow, Barbara Szanto Alexander		
<b>PARTY</b> (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	<b>PARTY</b> (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input checked="" type="checkbox"/> Other <input type="checkbox"/> Trustee			
<b>CAUSE OF ACTION</b> (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)  Defendants stole plaintiff's identity, to create debt in plaintiff's name. Defendants failure to pay debts created tax liability for plaintiff. 28 USC 1340, 18 USC 1028 , 11 USC 542				
<b>NATURE OF SUIT</b>  (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)				
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; border: none;"> <b>FRBP 7001(1) – Recovery of Money/Property</b>  <input checked="" type="checkbox"/> 11-Recovery of money/property - §542 turnover of property  <input type="checkbox"/> 12-Recovery of money/property - §547 preference  <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer  <input type="checkbox"/> 14-Recovery of money/property - other   <b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b>  <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property   <b>FRBP 7001(3) – Approval of Sale of Property</b>  <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)   <b>FRBP 7001(4) – Objection/Revocation of Discharge</b>  <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)   <b>FRBP 7001(5) – Revocation of Confirmation</b>  <input type="checkbox"/> 51-Revocation of confirmation   <b>FRBP 7001(6) – Dischargeability</b>  <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims  <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud  <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny             (continued next column)         </td> <td style="width: 50%; vertical-align: top; border: none;"> <b>FRBP 7001(6) – Dischargeability (continued)</b>  <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support  <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury  <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan  <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)  <input type="checkbox"/> 65-Dischargeability - other   <b>FRBP 7001(7) – Injunctive Relief</b>  <input type="checkbox"/> 71-Injunctive relief – imposition of stay  <input type="checkbox"/> 72-Injunctive relief – other   <b>FRBP 7001(8) Subordination of Claim or Interest</b>  <input type="checkbox"/> 81-Subordination of claim or interest   <b>FRBP 7001(9) Declaratory Judgment</b>  <input type="checkbox"/> 91-Declaratory judgment   <b>FRBP 7001(10) Determination of Removed Action</b>  <input type="checkbox"/> 01-Determination of removed claim or cause   <b>Other</b>  <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i>  <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)         </td> </tr> </table>			<b>FRBP 7001(1) – Recovery of Money/Property</b> <input checked="" type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other  <b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b> <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property  <b>FRBP 7001(3) – Approval of Sale of Property</b> <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)  <b>FRBP 7001(4) – Objection/Revocation of Discharge</b> <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)  <b>FRBP 7001(5) – Revocation of Confirmation</b> <input type="checkbox"/> 51-Revocation of confirmation  <b>FRBP 7001(6) – Dischargeability</b> <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny  (continued next column)	<b>FRBP 7001(6) – Dischargeability (continued)</b> <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other  <b>FRBP 7001(7) – Injunctive Relief</b> <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other  <b>FRBP 7001(8) Subordination of Claim or Interest</b> <input type="checkbox"/> 81-Subordination of claim or interest  <b>FRBP 7001(9) Declaratory Judgment</b> <input type="checkbox"/> 91-Declaratory judgment  <b>FRBP 7001(10) Determination of Removed Action</b> <input type="checkbox"/> 01-Determination of removed claim or cause  <b>Other</b> <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
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<input type="checkbox"/> Check if this case involves a substantive issue of state law		<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23		
<input type="checkbox"/> Check if a jury trial is demanded in complaint		Demand \$ 302,849.00		
Other Relief Sought				

021612AL

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Peter Szanto	BANKRUPTCY CASE NO. 16-33185 pcm11	
DISTRICT IN WHICH CASE IS PENDING OREGON	DIVISION OFFICE Portland	NAME OF JUDGE McKittrick
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) 		
DATE 9-20-16	PRINT NAME OF ATTORNEY (OR PLAINTIFF) PETER SZANTO	

## INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

**Plaintiffs and Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

**Attorneys.** Give the names and addresses of the attorneys, if known.

**Party.** Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

**Demand.** Enter the dollar amount being demanded in the complaint.

**Signature.** This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.